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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,397	01/14/2004	Sharon Cohen-Vered	2609/68811-A/JPW/GJG/JBC	6066

7590 06/11/2008

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EXAMINER	
AUDET, MAURY A	

ART UNIT	PAPER NUMBER
1654	

MAIL DATE	DELIVERY MODE
06/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/758,397	COHEN-VERED ET AL.	
	Examiner	Art Unit	
	MAURY AUDET	1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 April 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-14,16,24,25,27,31,36,37,47 and 52* is/are pending in the application.

4a) Of the above claim(s) *14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☒ Claim(s) *1-4, 6-13,16,24,25,27,31,36,37,47 and 52* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Applicant's amendment and response is acknowledged.

Election/Restrictions

As stated previously, Applicant's election with traverse of Group I, current claims 1-13, 24-25 and 52, as drawn to the elected invention peptide SEQ ID NO: 6, in the reply filed on 07/31/2006 is acknowledged. The Examiner has rejoined claims 16, 27, 31, 36-37, and 47. The only currently non-rejoined Group, is Group II (claim 14 (method of use)). As to the traversal of the Groups, the traversal is deemed moot, as there was no traversal for the restriction between Group II and the other Groups (e.g. elected Group I). **Applicant's remaining traversal is of the peptide election as the invention, namely, that all the distinct sequences corresponding to SEQ ID NO: 16 should be searched, and can be without an undue burden. This is not found persuasive for the reasons of record, and would pose a substantial undue burden, as described in the Restriction Requirement. Claim 14 is withdrawn as being drawn to a non-elected invention. Claims 1-13, 16, 24-25, 27, 31, 36-37, 47, and 52 are examined on the merits, as drawn to the elected peptide, comprising SEQ ID NO: 6.**

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

The objection of claims 1-13, 16, 24-25, 27, 31, 36-37, 47, and 52 is MAINTAINED because of the following informalities: the claims have not been amended to be commensurate

in scope with the elected invention (namely elected peptide of the invention, comprising SEQ ID NO: 6). Appropriate correction is required.

This is the only remaining issue in the application. However, due to the amount of amendments needed, an Examiner's Amendment was not possible feasible. Hence, the action is made Final on this ground, and left for Applicant to supply the appropriate amendments.

Claim Rejections - 35 USC § 103-MOOT

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The rejection of claims 1-5, 8-9, 13, 16, 24-25, 27, 31, 36-37, 47, and 52 under 35 U.S.C. 103 (a) as being unpatentable over Mozes (U.S. 2004/0127408 A1 (Priority date = February 26, 2001)) in view of Hora et al. (U.S. Patent 5,997,856); as well as claims 10 and 11 as being unpatentable over Mozes (U.S. 2004/0127408 A1 (Priority date = February 26, 2001)) in view of Hora et al. U.S. Patent 5,997,856 as applied to claim 1-4, 7, 8, 11, 31, 42, 53, 57, and 59-61 above, and further in view of Anderson and Flora (Chapter 34, pages 739-754, The Practice of Medicinal Chemistry, edited by Camille Georges Wermuth, Academic Press 1996); as well as claims 6-7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mozes U.S. (2004/0127408 A1 (Priority date = February 26, 2001)) in view of Hora et al. (U.S. Patent 5,997,856), and further in view of Stella et al. (U.S. Patent 5,134,127) have all been dropped. The issue is deemed moot. The claims have not been amended commensurate in scope with

Applicant's elected invention of SEQ ID NO: 6, as indicated above. That is the only issue remaining in the present application. The claim language of the above claims, to which the 103 rejection was inadvertently applied, do not provide the suggestion/motivation to render obvious the distinct peptide of the elected invention SEQ ID NO: 6. For this reason the rejections have been dropped.

Provisional Double Patenting-MOOT

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

The rejection of claims 1-13, 16, 24-25, 27, 31, 36-37, 47, and 52 as provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18, 21, 31-32, 41, 52-53, and 57-61 of copending Application No. 10/758,572, has been dropped and is now deemed a moot issue in light of the latter's amendment upon allowance

(now US 7,294,687) to be drawn on to SEQ ID NO: 1. Which is distinct from the elected invention of SEQ ID NO: 6 of the present application.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAURY AUDET whose telephone number is (571)272-0960. The examiner can normally be reached on M-Th. 7AM-5:30PM (10 Hrs.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA, 6/4/2008

/Andrew D Kosar/
Primary Examiner, Art Unit 1654